

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: TOPICAL CORTICOSTEROID
ANTITRUST LITIGATION

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16mc7000

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MASTER CASE ORDER No. 1

IN RE: CLOBETASOL ANTITRUST
LITIGATION

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16mc7229

IN RE: DESONIDE ANTITRUST
LITIGATION

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16mc7987

IN RE: FLUOCINONIDE ANTITRUST
LITIGATION

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16mc8911

SERGEANTS BENEVOLENT
ASSOCIATION HEALTH & WELFARE
FUND, on behalf of itself and all others
similarly situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

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16cv7229

UNITED FOOD AND COMMERCIAL
WORKERS UNIONS AND EMPLOYERS
MIDWEST HEALTH BENEFITS FUND, on
behalf of itself and all others similarly situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

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16cv7979

SERGEANTS BENEVOLENT
ASSOCIATION HEALTH & WELFARE
FUND, on behalf of itself and all others
similarly situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

16cv7987

NECA-IBEW WELFARE TRUST FUND, on
behalf of itself and all others similarly situated,

Plaintiff,

-against-

AKORN, INC., *et al.*,

Defendants.

16cv8109

PLUMBERS & PIPEFITTERS LOCAL 178
HEALTH & WELFARE TRUST FUND, on
behalf of itself and all others similarly situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

16cv8374

A.F. OF L. – A.G.C. BUILDING TRADES
WELFARE PLAN, on behalf of itself and all
others similarly situated,

Plaintiff,

-against-

AKORN, INC., *et al.*,

Defendants.

16cv8469

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 30 BENEFITS FUND,
on behalf of itself and all others similarly
situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

16cv8539

SERGEANTS BENEVOLENT
ASSOCIATION HEALTH & WELFARE
FUND, on behalf of itself and all others
similarly situated,

Plaintiff,

-against-

TARO PHARMACEUTICAL INDUSTRIES,
LTD., *et al.*,

Defendants.

16cv8911

UFCW LOCAL 1500 WELFARE FUND, on
behalf of itself and all others similarly situated,

Plaintiff,

-against-

AKORN, INC., *et al.*,

Defendants.

16cv9392

UFCW LOCAL 1500 WELFARE FUND,
on behalf of itself and all others similarly situated,

Plaintiff,

-against-

ACTAVIS HOLDCO U.S., INC., *et al.*,

Defendants.

16cv9431

ST. PAUL ELECTRICAL WORKERS'
HEALTH PLAN, on behalf of itself and all
others similarly situated,

Plaintiff,

-against-

FOUGERA PHARMACEUTICALS, INC., *et al.*,

Defendants.

16cv9530

PLUMBERS & PIPEFITTERS LOCAL 178
HEALTH & WELFARE TRUST FUND, on
behalf of itself and all others similarly situated,

Plaintiff,

-against-

TEVA PHARMACEUTICALS USA INC., *et al.*,

Defendants.

16cv9659

UFCW LOCAL 1500 WELFARE FUND,
on behalf of itself and all others similarly situated,

Plaintiff,

-against-

ACTAVIS HOLDCO U.S., INC., *et al.*,

Defendants.

16cv9792

WILLIAM H. PAULEY III, District Judge:

On December 15, 2016, this Court conducted an initial case management conference with counsel in eleven pending antitrust actions relating to Clobetasol, Desonide, and Fluocinonide. Since that conference, two additional actions have been filed: Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund v. Fougera Pharmaceuticals, Inc., et al., 16-cv-9659; and UFCW Local 1500 Welfare Fund v. Actavis Holdco U.S., Inc., et al., 16-cv-9792. To promote judicial economy and ensure efficient and cost-effective litigation, this Court organizes the claims in all related actions as follows:

1. The Clerk of Court is directed to open a master case docket titled In re Topical Corticosteroid Antitrust Litigation, bearing docket number 16-mc-7000, and file a copy of this Order on the docket. Any filing fees associated with opening the master case docket are waived. No attorney may file any document on the master case docket without the prior permission of this Court.

2. All Clobetasol allegations and claims for relief in the above-captioned actions, and any allegations or claims for relief relating to Clobetasol in any later-filed actions, shall be consolidated for coordinated pre-trial proceedings pursuant to Rule 42(a) of the Federal Rules of Civil Procedure in an action titled In re Clobetasol Antitrust Litigation, bearing docket number 16-mc-7229. Any filing fees associated with opening the In re Clobetasol Antitrust Litigation docket are waived.

3. All Desonide allegations and claims for relief in the above-captioned actions, and any allegations or claims for relief relating to Desonide in any later-filed actions, shall be consolidated for coordinated pre-trial proceedings pursuant to Rule 42(a) of the Federal Rules of Civil Procedure in an action titled In re Desonide Antitrust Litigation, bearing docket number 16-mc-7987. Any filing fees associated with opening the In re Desonide Antitrust Litigation docket

are waived.

4. All Fluocinonide allegations and claims for relief in the above-captioned actions, and any allegations or claims for relief relating to Fluocinonide in any later-filed actions, shall be consolidated for coordinated pre-trial proceedings pursuant to Rule 42(a) of the Federal Rules of Civil Procedure in an action titled In re Fluocinonide Antitrust Litigation, bearing docket number 16-mc-8911. Any filing fees associated with opening the In re Fluocinonide Antitrust Litigation docket are waived.

5. Each subsequent filing by the parties in 16-mc-7000, 16-mc-7229, 16-mc-7987, or 16-mc-8911, shall indicate whether the filing should be docketed in all related cases or only in specified related cases. Counsel are reminded that filings are to be spread across all related actions only when necessary. Papers filed inappropriately will be stricken from the docket.

6. Interim Lead Counsel for Plaintiffs: This Court appoints Girard Gibbs LLP as Interim Lead Counsel for Plaintiffs in In re Clobetasol Antitrust Litigation, 16-mc-7229, In re Desonide Antitrust Litigation, 16-mc-7987, and In re Fluocinonide Antitrust Litigation, 16-mc-8911. Plaintiffs' Interim Lead Counsel is authorized to receive orders and notices from this Court on behalf of all parties and shall be responsible for the preparation and transmittal of copies of such orders and notices to all parties. Unless otherwise ordered by this Court, Plaintiffs' Interim Lead Counsel may rely on the electronic court filing ("ECF") system to serve parties with orders and notices.

7. Managing complex litigation is a dynamic process that requires close monitoring by this Court. With that principle in mind, this Court limits its appointment of Girard Gibbs LLP as Interim Lead Counsel to a one-year term. Counsel may apply for renewal by December 22, 2017. This Court will also entertain any competing applications at that time.

8. Until further order of this Court, the Clerk is directed to note the following parties, and no others, on the Master Case Docket, In re Topical Corticosteroid Antitrust

Litigation, 16-mc-7000:

a. For Plaintiffs

- i. Sergeants Benevolent Association Health & Welfare Fund
- ii. United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund
- iii. NECA-IBEW Welfare Trust Fund
- iv. Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund
- v. A.F. of L. – A.G.C. Building Trades Welfare Plan
- vi. International Union of Op. Eng. Local 30 Benefits Fund
- vii. UFCW Local 1500 Welfare Fund
- viii. St. Paul Electrical Workers' Health Plan

b. For Defendants

- i. Fougere Pharmaceuticals, Inc.
- ii. Sandoz, Inc.
- iii. Novartis International AG
- iv. Hi-Tech Pharmacal Co., Inc.
- v. Akorn, Inc.
- vi. Morton Grove Pharmaceuticals, Inc.
- vii. Wockhardt USA LLC
- viii. Perrigo New York, Inc.
- ix. Perrigo Company plc
- x. Taro Pharmaceuticals USA, Inc.
- xi. Taro Pharmaceuticals Industries Ltd.
- xii. Sun Pharmaceutical Industries, Ltd.
- xiii. Actavis Holdco U.S., Inc.

xiv. Teva Pharmaceuticals USA, Inc.

xv. Teva Pharmaceutical Industries, Ltd.

9. Until further order of this Court, the Clerk is directed to note the following parties, and no others, in the action titled In re Clobetasol Antitrust Litigation, 16-mc-7229:

a. For Plaintiffs

- i. Sergeants Benevolent Association Health & Welfare Fund
- ii. United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund
- iii. NECA-IBEW Welfare Trust Fund
- iv. Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund
- v. A.F. of L. – A.G.C. Building Trades Welfare Plan
- vi. International Union of Op. Eng. Local 30 Benefits Fund
- vii. UFCW Local 1500 Welfare Fund
- viii. St. Paul Electrical Workers' Health Plan

b. For Defendants

- i. Fougere Pharmaceuticals, Inc.
- ii. Sandoz, Inc.
- iii. Novartis International AG
- iv. Hi-Tech Pharmacal Co., Inc.
- v. Akorn, Inc.
- vi. Morton Grove Pharmaceuticals, Inc.
- vii. Wockhardt USA LLC
- viii. Perrigo Company plc
- ix. Taro Pharmaceuticals USA, Inc.
- x. Taro Pharmaceuticals Industries Ltd.

xi. Actavis Holdco U.S., Inc.

10. Until further order of this Court, the Clerk is directed to note the following parties, and no others, in the action titled In re Desonide Antitrust Litigation, 16-mc-7987:

a. For Plaintiffs

- i. Sergeants Benevolent Association Health & Welfare Fund
- ii. Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund
- iii. International Union of Op. Eng. Local 30 Benefits Fund
- iv. UFCW Local 1500 Welfare Fund
- v. St. Paul Electrical Workers' Health Plan

b. For Defendants

- i. Fougere Pharmaceuticals, Inc.
- ii. Sandoz, Inc.
- iii. Novartis International AG
- iv. Hi-Tech Pharmacal Co., Inc.
- v. Akorn, Inc.
- vi. Morton Grove Pharmaceuticals, Inc.
- vii. Wockhardt USA LLC
- viii. Perrigo New York, Inc.
- ix. Perrigo Company plc
- x. Taro Pharmaceuticals USA, Inc.
- xi. Taro Pharmaceuticals Industries Ltd.
- xii. Actavis Holdco U.S., Inc.

11. Until further order of this Court, the Clerk is directed to note the following parties, and no others, in the action titled In re Fluocinonide Antitrust Litigation, 16-mc-8911:

a. For Plaintiffs

- i. Sergeants Benevolent Association Health & Welfare Fund
 - ii. Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund
 - iii. UFCW Local 1500 Welfare Fund
- b. For Defendants
- i. Fougera Pharmaceuticals, Inc.
 - ii. Sandoz, Inc.
 - iii. Novartis International AG
 - iv. Taro Pharmaceuticals USA, Inc.
 - v. Taro Pharmaceuticals Industries Ltd.
 - vi. Sun Pharmaceutical Industries, Ltd.
 - vii. Actavis Holdco U.S., Inc.
 - viii. Teva Pharmaceuticals USA, Inc.
 - ix. Teva Pharmaceutical Industries, Ltd.

12. Until further order of this Court, the Clerk is directed to note the following appearances for Plaintiffs, and no others, on the Master Case Docket, In re Topical

Corticosteroid Antitrust Litigation:

Daniel Charles Girard
Girard Gibbs LLP
601 California Street, Suite 1400
San Francisco, CA 94108

13. Until further order of this Court, the Clerk is directed to note the following appearances for Defendants, and no others, on the Master Case Docket, In re Topical

Corticosteroid Antitrust Litigation:

- a. For Fougera Pharmaceuticals, Inc. and Sandoz, Inc.:

Laura S. Shores
Kaye Scholer LLP
901 Fifteenth St., Suite 1100
Washington, DC 20005

- b. For Hi-Tech Pharmacal Co., Inc. and Akorn, Inc.:

Joseph Serino, Jr.
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022

- c. For Morton Grove Pharmaceuticals, Inc. and Wockhardt USA LLC:

Damon William Suden
Kelley Drye & Warren, LLP
101 Park Avenue
New York, NY 10178

- d. For Perrigo New York, Inc. and Perrigo Company plc:

Andrew Samuel Wellin
Morgan Lewis & Bockius, LLP
101 Park Avenue
New York, NY 10178

- e. For Taro Pharmaceuticals USA, Inc. and Taro Pharmaceuticals Industries Ltd.:

Lisa Jose Fales
Venable LLP
575 7th Street, NW
Washington, DC 20004

- f. For Actavis Holdco U.S., Inc. and Teva Pharmaceuticals USA, Inc.:

Christopher T. Holding
Goodwin Procter, LLP
100 Northern Avenue
Boston, MA 02210

14. The named Defendants who have not yet appeared should advise this Court by letter who they wish to designate as counsel for In re Topical Corticosteroid Antitrust Litigation.

15. Any counsel wishing to appear in In re Clobetasol Antitrust Litigation, In re Desonide Antitrust Litigation, and/or In re Fluocinonide Antitrust Litigation, should file their appearance electronically on the appropriate docket. Each attorney who is not a member of the Bar of this Court but intends to appear as counsel for a Plaintiff or a Defendant shall be deemed admitted pro hac vice to practice before this Court in connection with these coordinate actions on

the proper filing and payment of fees as provided by the Local Rules of the Southern District of New York.

16. Defendants' counsel are encouraged to organize themselves and nominate one law firm to serve as Liaison Counsel for Defendants. Liaison Counsel will communicate with this Court. Defense counsel should advise this Court of the identity of the law firm who will undertake this obligation by January 5, 2017.

17. Plaintiffs' Interim Lead Counsel is directed to file consolidated amended complaints in 16-mc-7229, 16-mc-7987, and 16-mc-8911, by February 10, 2017.

18. Defendants' Liaison Counsel are directed to interpose an answer or file a letter request for a pre-motion conference addressed to the pleadings in 16-mc-7229, 16-mc-7987, and 16-mc-8911, no later than March 3, 2017.

19. Plaintiffs' Interim Lead Counsel is directed to file any responsive letter no later than March 10, 2017.

20. Any party wishing to raise other issues with this Court may file a letter no later than March 10, 2017 in 16-mc-7229, 16-mc-7987, or 16-mc-8911.

21. This Court will conduct a conference concerning any proposed motions to dismiss and any other issues raised by the parties on March 21, 2017 at 11:00 a.m.

22. Plaintiff Sergeants Benevolent Association Health & Welfare Fund's application for limited discovery is granted. All other discovery applications for limited discovery are denied at this time. Defendant Taro Pharmaceuticals Industries, Ltd. is directed to make an initial limited document production consisting of the September 8, 2016 subpoenas from the Department of Justice, Antitrust Division to Taro Pharmaceuticals Industries, Ltd. and its employees, together with any written responses and related communications between the Department of Justice and Taro Pharmaceuticals Industries, Ltd. by January 5, 2017.

23. All counsel are directed to familiarize themselves with this Court's Individual

Rules of Practice. Those rules may be accessed via <http://nysd.uscourts.gov/judge/Pauley>.

24. All parties and counsel are reminded of their duty to preserve evidence that may be relevant to this action. The duty extends to documents, data, and tangible things, which is to be interpreted broadly to include any physical or electronic material (including metadata) that is or may reasonably be discoverable, or that may assist in identifying discoverable material.

25. The Clerk of Court is directed to file this Order in 16mc7000, 16mc7229, 16mc7987, 16mc8911 and all related actions. To facilitate the spreading of text by this Court and counsel, the Clerk of Court may treat all of the related actions as consolidated for all purposes and to avoid the need to file a document separately in each case.

Dated: December 22, 2016
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.